



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

September 21, 2022

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Eric Cabrera**
Tax Registry No. 938142
Manhattan Court Section
Disciplinary Case No. 2020-22799

The above named member of the service appeared before Assistant Deputy Commissioner Josh Kleiman on June 28, 2022 and was charged with the following:

DISCIPLINARY CASE NO. 2020-22799

1. Said Police Officer Eric Cabrera, while on duty and assigned to the 113th Precinct, on or about and in between January 1, 2019 through December 31, 2019, did cause false entries in the Electronic Case Monitoring System, to wit: Said Police Officer entered investigative steps that he in fact did not perform.

P.G. 207-07, Page 1, Paragraphs 1, 4

COMPLAINTS
(Other than VICE related or
narcotics complaints)

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

P.G. 203-05, Page 1, Paragraph 4

PERFORMANCE ON DUTY

2. Said Police Officer Eric Cabrera, while on duty and assigned to the 113th Precinct, on or about and in between January 1, 2019 through December 31, 2019, wrongfully failed to conduct a proper investigation into numerous complaints, including but not limited to interviewing witnesses.

P.G. 207-07, Page 1, Paragraphs 1, 4

COMPLAINTS
(Other than VICE related or
narcotics complaints)

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

Detective Guide 502-01

INVESTIGATIVE TECHNIQUES

3. Said Police Officer Eric Cabrera, while on duty and assigned to the 113th Precinct, on or about and in between January 1, 2019 through December 31, 2019, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Said Police Officer Cabrera made false and misleading statements in marking complaints as "closed" despite not completing and/or exhausting all investigative steps.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

P.G. 203-05, Page 1, Paragraphs 1, 2

PERFORMANCE ON DUTY

In a Memorandum dated July 25, 2022, Assistant Deputy Commissioner Josh Kleiman found Police Officer Eric Cabrera guilty of all Specifications, after he pled guilty to all Specifications in Disciplinary Case No. 2020-22799. Having read the Memorandum and analyzed the facts of this matter, I approve of the findings, and agree that Police Officer Eric Cabrera be separated from the Department by way of vested interest retirement.

Having considered the totality of the circumstances and issues concerning the misconduct for which Police Officer Eric Cabrera has been found guilty, separation from the Department will be implemented as follows.

In lieu of dismissal, an *immediate* post-trial settlement agreement be implemented with Police Officer Eric Cabrera in which he shall forfeit thirty (30) suspension days to be served, forfeit all time and leave balances, be placed on one (1) year dismissal probation, and immediately file for vested interest retirement.

Such vested interest retirement shall also include Police Officer Eric Cabrera's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Cabrera does not agree to the terms of this vested interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented *IMMEDIATELY*.


Keechant L. Sewell
Police Commissioner



POLICE DEPARTMENT

July 25, 2022

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| In the Matter of the Charges and Specifications | : | Case No. |
| - against - | : | 2020-22799 |
| Police Officer Eric Cabrera | : | |
| Tax Registry No. 938142 | : | |
| Manhattan Court Section | : | |

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Josh Kleiman
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: John Arlia, Esq.
Wenger & Arlia, Esqs., LLP
20 Vesey Street, Suite 210
New York, NY 10007

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer Eric Cabrera, while on duty and assigned to the 113th Precinct, on or about and in between January 1, 2019 through December 31, 2019, did cause false entries in the Electronic Case Monitoring System, to wit; Said Police Officer entered investigative steps that he in fact did not perform.

P.G. 207-07, Page 1, Paragraphs 1, 4

COMPLAINTS
(Other than VICE related or
narcotics complaints)

P.G. 203-10, Page 1, Paragraph 5¹

PUBLIC CONTACT –
PROHIBITED CONDUCT

P.G. 203-05, Page 1, Paragraph 4

PERFORMANCE ON DUTY –
GENERAL

2. Said Police Officer Eric Cabrera, while on duty and assigned to the 113th Precinct, on or about and in between January 1, 2019 through December 31, 2019, wrongfully failed to conduct a proper investigation into numerous complaints, including but not limited to interviewing witnesses.

P.G. 207-07, Page 1, Paragraphs 1, 4

COMPLAINTS
(Other than VICE related or
narcotics complaints)

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

Detective Guide 502-01

INVESTIGATIVE TECHNIQUES

3. Said Police Officer Eric Cabrera, while on duty and assigned to the 113th Precinct, on or about and in between January 1, 2019 through December 31, 2019, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Police Officer Cabrera made false and misleading statements in marking complaints as “closed” despite not completing and/or exhausting all investigative steps.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

P.G. 203-05, Page 1, Paragraphs 1, 2

PERFORMANCE ON DUTY –
GENERAL

¹ At trial, the Department, with Respondent’s consent, orally amended: Specification 1 to include references to P.G. 203-10 and 203-05; Specification 2 to include references to P.G. 203-10 and Detective Guide 502-01; and Specification 3 to include a reference to P.G. 203-05, (Tr. 3-4)

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on June 28, 2022. Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, the Tribunal recommends that Respondent be separated from the Department.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent admitted to falsely claiming to have investigated 25 cases assigned to him as a Detective in the 113th Precinct. In recommending that the 25 cases be closed (Tr. 12-14, 30), Respondent claimed in written reports to have interviewed complainants he had not interviewed and to have taken investigative steps he did not take (Tr. 32-33, 37). The 25 cases involved the following alleged crimes:

| Complaint # | Crime Reported |
|----------------------|---|
| 2019-113- [REDACTED] | Criminal Mischief – Neighbor kicked fence and damaged property. Video available. |
| 2019-113- [REDACTED] | Aggravated Harassment – Perp sending threatening text messages, stating “I’m going to kill you.” |
| 2019-113- [REDACTED] | Criminal Mischief – Perp tenant, who was upset victim landlord took him to court, shoved her and threw garbage on her car, damaging vehicle. |
| 2019-113- [REDACTED] | Grand Larceny Auto – Victim parked vehicle with keys inside, unknown perp stole vehicle, vehicle later recovered. Victim’s iPhone was missing from car. |

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| 2019-113-[REDACTED] | Criminal Mischief – Perp kicked victim's car, causing damage to passenger door. |
| 2019-113-[REDACTED] | Attempted Burglary – Unknown perp attempted to enter victim's apartment, damaging doors. |
| 2019-113-[REDACTED] | Criminal Mischief – Security Guard reported that perp demanded laundry room be opened then kicked in door causing damage to door and lock and violating an active OOP. |
| 2019-113-[REDACTED] | Criminal Mischief – Unknown perp pushed metal cart into store window causing damage. |
| 2019-113-[REDACTED] | Criminal Mischief – C/V returned to vehicle to find passenger side window and front and rear headlights broken. |
| 2019-113-[REDACTED] | Petit Larceny – Unknown perps broke rear passenger window of vehicle and stole 10 bags of potato chips. |
| 2019-113-[REDACTED] | Criminal Mischief – Unknown perp broke rear window of van. |
| 2019-113-[REDACTED] | Criminal Mischief – Unknown perp damaged two windows and a door at location. |
| 2019-113-[REDACTED] | Aggravated Harassment – Perp messaged C/V stating she will "catch these hands," causing her annoyance and alarm. |
| 2019-113-[REDACTED] | Petit Larceny – Bicycle stolen by known perp. |
| 2019-113-[REDACTED] | Aggravated Harassment – Known perp sending threatening Facebook, Instagram, text messages, and emails, stating she will come for C/V and burn her house and car. |
| 2019-113-[REDACTED] | Criminal Mischief – Known perp threw rock through rear window of C/V's vehicle. |
| 2019-113-[REDACTED] | Aggravated Harassment - C/V reported threatening and harassing phone calls and text |

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| | messages from current boyfriend's ex-girlfriend. |
| 2019-113- [REDACTED] | Grand Larceny – C/V's wallet stolen from nail salon. |
| 2018-113- [REDACTED] | Petit Larceny – Perp broke rear passenger side window and removed items from vehicle. |
| 2019-113- [REDACTED] | Petit Larceny – Unknown perp took tablet from Uber. |
| 2019-113- [REDACTED] | Identity Theft – Perp opened Chase debit card under C/V's name. |
| 2019-113- [REDACTED] | Criminal Mischief – Known perp keyed C/V's car. |
| 2019-113- [REDACTED] | Identity Theft – Perp used C/V's DOB and SSN to obtain an apartment in Georgia and open a cellphone account. |
| 2019-113- [REDACTED] | Grand Larceny – Rear passenger window broken and items removed valued at under \$250. |
| 2019-113- [REDACTED] | Unauthorized Use of Motor Vehicle – Perp never returned U-Haul truck. |

(Dept. Exs. 1-25).

At his mitigation hearing, Respondent claimed that he engaged in the above misconduct because he was overworked and going through a divorce. Respondent testified that he was being assigned “over 300 cases a year . . . [and] I was being harassed by the lieutenant to get[] the cases closed on time.” Respondent described working late hours that caused a breakdown in his marriage. Respondent testified that he experienced extreme anxiety during this period and had trouble sleeping. He detailed that he was depressed and that his personal problems were embarrassing to him, but he was hesitant to seek help or mental health counseling because he “was afraid of losing everything.” At work, Respondent chose to prioritize more serious cases, “focusing on the 7 majors” to the detriment of the minor cases. Respondent testified that he takes full responsibility for his misconduct (Tr. 21-29).

The Department has a strong interest in maintaining a police force consisting of officers who are professional in their work, trustworthy in their representations, and who are likely to be found credible when their work is reviewed by others. Officers who intentionally make false representations betray an essential function of police work and risk the associational reputations of their fellow officers and the organizations they represent. Accordingly, the misconduct with which Respondent has been charged constitutes a form of misconduct that the Patrol Guide has long warned officers “will result in separation from the Department, absent extraordinary circumstances” (*see* A.G. 304-10 [formerly P.G. 203-08]).

Here, there is insufficient evidence warranting a penalty less than separation. There is no evidence that Respondent was treated differently than other detectives in the Department, or that Respondent suffered from a documented medical condition that prevented him from performing his duties as expected. To permit Respondent to benefit from a reduced penalty based merely on generalized claims of being overworked and suffering from generalized, non-medically diagnosed, conditions, would undermine the effectiveness of the Department’s clear guidance on false statements. Certain workplace rules must remain firm and easily administrable, so employees harbor no uncertainty as to their primacy and gravity. There is arguably no rule of the Department more deserving of such a status than the rule against the making of false official statements. To erode this rule would be to risk unraveling over a century of this Department’s efforts to build and maintain a reputation of excellence and professionalism.

Accordingly, this is a matter in which separation is warranted. Respondent does not disagree (Tr. 27-28). Rather, Respondent has asked the Tribunal to consider an alternate form of separation in which Respondent is given pensionable credit for the years of service he has given the Department. The Tribunal finds Respondent’s request to be reasonable based on a lack of any

prior formal disciplinary history and an otherwise positive employment record. Additionally, Respondent's current platoon commander has informed the Tribunal that Respondent, after having been demoted and transferred to another assignment, has performed his duties and responsibilities "beyond my expectations," finding Respondent to be "extremely competent." Based on these performance indicators, the Tribunal finds that a form of separation in which Respondent receives credit for his years of otherwise admirable service is deserving. Accordingly, the Tribunal recommends that Respondent be offered a forced vested interest retirement, which will result in his immediate separation from the Department.

Respectfully submitted,



Josh Kleiman
Assistant Deputy Commissioner Trials

APPROVED



SEP 21 2022
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER ERIC CABRERA
TAX REGISTRY NO. 938142
DISCIPLINARY CASE NO. 2020-22799

Respondent was appointed to the Department on July 11, 2005. On his three most recent annual performance evaluations, he was rated “Exceeds Expectations for 2019, 2020 and 2021. He has been awarded five medals for Excellent Police Duty and six medals for Meritorious Police Duty.

Respondent has no formal disciplinary history. He was placed on Level 1 Performance Monitoring from May 30, 2019 to January 31, 2020.

For your consideration.

Josh Kleiman
Assistant Deputy Commissioner Trials